

close of business on the last day for filing the return as prescribed in § 24.271. The request will take into account any time limit established by the financial institution.

(3) If the proprietor was liable during the preceding calendar year for less than \$5 million in wine excise taxes, combining tax liabilities incurred under this part and parts 26 and 27 of this chapter, the proprietor may choose either to continue remitting the tax as provided in this section or to remit the tax with return as prescribed by § 24.271. Upon filing the first return on which the proprietor chooses to discontinue remittance of the tax by EFT and to begin remittance of the tax with the tax return, the proprietor shall notify the appropriate TTB officer by attaching a written notification to the tax form stating that no wine excise tax is due by EFT because the tax liability during the preceding calendar year was less than \$5 million, and that the remittance will be filed with the tax return.

(c) *Remittance.* (1) The proprietor shall show on the tax return information about remitting the tax for that return by EFT and shall file the return with TTB in accordance with the instructions on the tax form.

(2) Remittances will be considered as made when the taxpayment by electronic fund transfer is received by the Treasury Account. For purposes of this section, a taxpayment by electronic fund transfer will be considered as received by the Treasury Account when it is paid to a Federal Reserve Bank.

(3) When the proprietor directs the financial institution to effect an electronic fund transfer message as required by paragraph (b) (2) of this section, the transfer data record furnished to the proprietor through normal banking procedures will serve as the record of payment, and will be retained as part of the required records.

(d) *Failure to make a taxpayment by EFT.* The proprietor is subject to a penalty imposed by 26 U.S.C. 5684, 6651, and 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this

section, the appropriate TTB officer will issue to the proprietor a TTB Procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a proprietor follows when preparing returns and EFT remittances in accordance with this subpart. The United States Customs Service will provide the proprietor with instructions for preparing EFT remittances for payments to be made to the United States Customs Service for payment of excise tax on imported wine. (Sec. 201, Pub. L. 85-859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

(Approved by the Office of Management and Budget under control numbers 1512-0467 and 1512-0492)

[T.D. ATF-299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF-409, 64 FR 13683, 13685, Mar. 22, 1999; T.D. ATF-459, 66 FR 38550, July 25, 2001; T.D. ATF-479, 67 FR 30798, May 8, 2002; T.D. TTB-91, 76 FR 5478, Feb. 1, 2011]

#### § 24.273 Exception to filing semi-monthly or quarterly tax returns.

(a) *Eligibility for annual filing.* A proprietor may file the Excise Tax Return, TTB F 5000.24, and remittance within 30 days after the end of the calendar year instead of semimonthly or quarterly as provided in § 24.271, if the proprietor has not given a bond for deferred payment of wine excise tax and if the proprietor:

(1) Paid wine excise taxes in an amount less than \$1000 during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than \$1000 in wine excise taxes before the end of the calendar year.

(b) *Loss of eligibility for annual filing.*

(1) If before the close of the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the

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total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts paid or owed) equals \$1000 or more, the proprietor will commence semimonthly or quarterly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

(2) If there is a jeopardy to the revenue, the appropriate TTB officer may at any time require the proprietor to file Excise Tax Returns on a semi-monthly or quarterly basis.

(c) *Other rules apply.* A proprietor who files on a calendar year basis under this section is subject to the failure to pay or file provisions of § 24.274.

[T.D. TTB–89, 76 FR 3510, Jan. 20, 2011]

EFFECTIVE DATE NOTE: By T.D. TTB–89, 76 FR 3510, Jan. 20, 2011, § 24.273 was revised, effective Feb. 22, 2011 to Feb. 24, 2014.

### § 24.274 Failure to timely pay tax or file a return.

Penalties for failure to pay tax at the time required, for willful refusal to pay the tax and for fraudulent nonpayment of tax are provided for in 26 U.S.C. 5661 and 6656. In addition to these penalties, there is a penalty for the delinquent filing of a tax return, imposed as an addition to the tax shown on the return, amounting to five percent for each month or fraction thereof of the delinquency, not exceeding 25 percent in the aggregate, unless it is shown that the delinquency is due to reasonable cause and not to willful neglect. (Sec. 201, Pub. L. 85–859, 72 Stat. 1407, as amended, 1410, as amended (26 U.S.C. 5661, 5684, 6651, 6656))

### § 24.275 Prepayment of tax.

(a) *General.* The proprietor shall, before removal of wine for consumption or sale, file Excise Tax Return, TTB F 5000.24, with remittance, where:

(1) Required to prepay tax under § 24.276; or,

(2) The tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than the amount of such tax covered by the wine operations coverage of the wine bond; or,

(3) There is no approved tax deferral bond and the total amount of tax un-

paid at any one time exceeds the amount of the wine operations coverage of the wine bond designated for wine removed from bonded wine premises on which tax has been determined but not paid.

The return with remittance is forwarded pursuant to the instructions printed on the return. For the purpose of complying with this section, the term “forwarding” means deposit in the United States mail properly addressed to TTB.

(b) *Electronic fund transfer.* When the proprietor is required by § 24.272 to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by:

(1) Completing the Excise Tax Return and by mailing it, as instructed on the form, to TTB and

(2) Directing the proprietor's financial institution to effect an electronic fund transfer. (August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

(Approved by the Office of Management and Budget under control numbers 1512–0467 and 1512–0492)

[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–338, 58 FR 19064, Apr. 12, 1993]

### § 24.276 Prepayment of tax; proprietor in default.

When the proprietor fails to forward a payment for wine excise tax due by presentment of a check or money order, or when the proprietor is otherwise in default of payment of the tax, no wine may be removed for consumption or sale until the tax has been paid for the period of the default and until the appropriate TTB officer finds the revenue will not be jeopardized by the late payment of the tax. Any remittance made during the period of the default will be in cash, or will be in the form of a certified, cashier's, or treasurer's check drawn on any financial institution incorporated under the laws of the United States, or under the laws of any State, Territory, or possession of the United States, or in the form of a money order, as provided in 27 CFR 70.61 (payment by check or money order) or in the form of an electronic